

TOWN OF MILAN

Dutchess County, New York

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February 9, 2004

Laurence G. Biegel
Environmental Analyst 1
New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, NY 12561-3042

RE: Red Wing Properties, Inc. Proposed "Archer" Sand and Gravel Mine
Town of Milan, Dutchess County, DEC Application #3-1336-00049/00001

Dear Mr. Biegel,

This is in response to your letter dated January 12, 2004 in which the DEC requested comments on the Draft Scoping Document (December 13, 2003 / Griggs Lang) for the above proposal – hereafter referred to as the "Draft Scope."

On May 30, 2003 the DEC issued a Positive Declaration citing ten reasons which are, with one major exception, restated in the Draft Scope on page 4 "2.0 POTENTIALLY SIGNIFICANT ADVERSE IMPACTS." The major omission in this section of the Draft Scope is the critical issue of the zoning that the DEC correctly cited:

"The current zoning for the site is agricultural/residential and would require a re-zoning to Floating Light Industrial." -- from the DEC's Positive Declaration, May 2003.

We wish to inform the DEC that Red Wing incorrectly describes the zoning issue on page 1 of its Draft Scope where they state, "**Mining is allowed in this [A3A] district** via the floating zone provisions of the Town of Milan zoning code."

We wish to inform the DEC that **mining is NOT permitted in the A3A district**. The A3A district and the Light Industrial District are two distinct and separate districts. There is a specific application procedure for the floating LI District and explicit authorization of the Town Board of the Town of Milan is required in order to establish a LI District.

This scoping process is being conducted in the absence of an application to any agency in Milan. Detailed applications and plans may reveal potential adverse impacts that are not

readily apparent in the Final Scoping Outline. We believe that the Final Scoping Outline should state that all potential impact issues and mitigation measures identified in the Final Scoping Outline are not intended to represent an exhaustive list of the possible environmental effects, and the DEIS is not limited to only those impacts or mitigation measures specifically mentioned.

On March 10, 2003 the Town Board rejected the Applicant's application for the establishment of a LI District.

What the Town of Milan requests

1) Under 5.0 REASONABLE ALTERNATIVES TO BE CONSIDERED in the Draft Scope the applicant should add

- **Alternative land use plan if Zoning is not changed by the Town Board and the site remains an A3A district where mining is not permitted**
 - specific land use plan including detailed uses
 - percent of land allocated to those uses
 - timeframe for the development of those uses
- **Returning Roe Jan to local use** as it was prior to Red Wing's purchase given the concern about local gravel needs --without creating a second mine on Turkey Hill Road.
- **Alternative travel route:** exit north and east traveling past the Roe-Jan mine to East Kerley Corners to avoid the problems highlighted above and place traffic exiting to Route 9 at a much safer intersection. A further potential alternative would then be available to travel across West Kerley Corners to Route 9G thereby avoiding the village of Red Hook which is experiencing major traffic bottlenecks in no small part the result of increased truck traffic from Red Wing.
- **Maximum mine build out:** Red Wing owns 196 acres inclusive of buffer properties and currently plans to mine 69 acres. This alternative establishes the maximum possible mining area and considers the effects of a mine of this maximum size.

2) **We strongly request a public hearing for the scoping review.**

- Despite the high level of interest and scale and impact of this project, there has never been a public hearing on the subject of Red Wing's complete application in the Town of Milan or elsewhere.

3) **We strongly recommend that the DEIS be expanded to include the Roe Jan site.**

- Since Red Wing bought the Roe Jan site from local ownership, the activity has increased to the point that there are serious concerns about School Bus route safety, quality of life, property values, noise, and dust near neighboring homes and homes along the haul route.
- More activity is expected. The applicant states that market demand “is expected to double the local demand from the Roe-Jan plant” which is on top of the tremendous increase in activity since the mine changed from local ownership two years ago. Again, that’s just local activity and doesn’t include the proposed Turkey Hill Road exporting mine.
- No significant reclamation has ever occurred at the Roe Jan mine which increases its impact on the environment

Comments on “2.0 POTENTIALLY SIGNIFICANT ADVERSE IMPACTS.”

Potential noise impact of equipment operating at the bank.

- Assessing noise impact of equipment operating at the bank is too narrow. The DEIS should address the noise and vibration generated by trucks not only on the proposed mine property but also along the haul route.
- Noise impact for neighbors opposite the entrance, specifically the Kossen residence which is directly opposite the proposed driveway where trucks will accelerate and turn.
- There should be studies undertaken consistent with the requirements of the Town Law with respect to the performance standards established for the approval of a light industrial classification. These studies should be done during full operating periods at other area mines at a distance from the operation that is equal to the minimum distance from the proposed operations to the closest site boundary. These measurements, consistent with the law, must include the “transient noises from moving sources”, i.e. “trucks and other vehicles used for the daily operation of the industrial uses.” (Section 200-13 E. (1) (b) of the Town Law)

Potential visual impact of the bank. (No comment).

Potential impact to archeological resources.

- It would have been helpful to have the Phase I Cultural Resources Survey results included in the Scoping process for further comment. Detail regarding the Phase II Cultural Survey to be conducted would be consistent with the intent of this section, i.e. Information and methodologies.” That should be incorporated into the Scoping document and reviewed by DEC for completeness.

Potential impact to an endangered plant species, the Rattlebox (*Crotalaria sagittalis*) that may be present at the site.

- The Blandings Turtle is completely left out of the Draft Scope while there are suitable wetlands within 1000 meters of the proposed mine site and likely migration between those wetlands and Warackamac Lake.
- There should be independent confirmation of the Rattlebox study and a thorough rare plant survey of the site.
- The DEIS should address potential impacts on trout fishery, the northern hog sucker and American brook lamprey since the stream that crosses the southern edge of the mine site flows ultimately to the Saw Kill.
- In addition, it would be pertinent to inventory the fish in the neighboring waters (Spring Lake and Warackamac Lake) and to propose a plan to monitor their health during any approved mining process.
- An independent review of the wetland boundary delineations is needed.

Potential impact on air quality.

This section is wholly inadequate and fails to state any plans to study the impact on air quality. A study should be undertaken at the nearby Roe Jan operation to determine the impact of sand and gravel mining on the air. This should include an assessment of dust and engine emissions against performance standards as outlined in Section 200-13 E. (5) of the Milan Town Law.

General discharge standards from the operation of diesel engines should be used to assess the impact on the air of the number and size of vehicles and equipment that can be expected on the site.

This study should recognize also the impact on the air along County Route 56, particularly the impact of diesel engines climbing the steep hill immediately to the west of the site along Turkey Hill and for those historic homes close to the road.

Potential impacts of project-related truck traffic on public roads.

The applicant's proposal to "consider the voluntary elimination with the implementation of this project of the truck traffic from the applicant's Roe-Jan Plant to the applicant's Billings Plant" is misleading because earlier, in the same document, the applicant advises that the market for local materials at Roe Jan is "...expected to double..."

Within Milan, the impact of a local truck and exporting truck will be the same. So the idea that there will be a "net decrease of 35 houses potentially impacted" shows the inappropriateness of looking at truck traffic individually by mine.

The combination of the traffic from Roe-Jan, which has the potential to double as they state in this document, with the proposed traffic from the proposed site is a more appropriate study parameter.

Also included should be consideration of other truck traffic on this road and in the immediate vicinity of the proposed mine.

Coker Springs Water Company operates with big tankers which pull up on the wrong side of the road, positioning to back into their facilities; when backing in the tankers span both lanes of the highway. These trucks will be immediately in the path of loaded gravel trucks heading down that hill.

And of course all this traffic is planned to exit County Route 56 at the Route 9, an intersection so dangerous that School Buses are prohibited from using this intersection.

Potential impact to groundwater.

- The DEIS should include a study of the ground water and aquifer not only at Warackamac Lake, but also at the adjacent Spring Lake, and adjacent streams.
- An independent analysis of the groundwater impact should be undertaken by DEC paid for by the applicant.

Potential impact to community character.

- “The Community” should be defined as both Milan and Red Hook and the truck haulage route through these two communities.
- The DEIS should address how the mine and truck traffic along the haul routes comply with the current Milan Comprehensive Plan
- The benefits to Milan must be defined.
- The Property values study is out of date, cursory and not specific to Milan. An independent study specific to the Town of Milan needs to be conducted.
- A man-made 6-acre pond is out of character with the immediate surroundings. Although the applicant has suggested that Lake Warackamac may be the result of mining, it is worth pointing out that this lake with this name appears on the earliest known maps of the area from the 18th century and is in the middle of a sensitive Native American archaeological sites.
- The proposed site is on a Dutchess County Scenic and Historic Route and an assessment on the impact of the local tourism economy should be conducted since tourism is important economically to Milan

1.1 “Description of Proposed Action” related to community character states: “The area of the planned Archer Bank is rural in nature and contains scattered homes,” and “The Archer Bank was operated in the 1970’s and 1980’s....”

Actually several hundred people reside within half a mile of the proposed site. The area is residential in nature, not rural.

The applicant fails to mention the size of the mine. According to March 9, 1984 DEC correspondence regarding the Archer Mine, “Approximately 5 acres were mined between

1971 and 1981. However, the total disturbed area was reclaimed in accordance with the accepted MLR procedures. Grading was started in July 1983. Alfalfa was seeded in August.... Photo of completed project was taken in November of '83."

Between these two statements, the Applicant is not recognizing the difference between a five-acre mine in the 1970's run by a farmer, and a 69-acre mine with large-scale trucks in a residential area 40 years later. The area has changed in that time. This distinction is very important.

Potential cumulative impacts from concurrent operation of the Roe-Jan Plant

- covered earlier

"Preliminary List of Mitigation Measures"

Most of the items on this list are items that are in keeping with the applicants submitted plans for operation of the site, the subject of SEQR requirements, DEC permitting requirements, or Town Law.

Mitigation goes to fixing the otherwise substantial environmental impacts of the operation. This entire section should be struck or should be a summary of actions above and beyond those planned or required in each of the areas of potential significant environmental impact.

Monitoring and enforcement

- There is no mention of how any of the claims will be monitored. We request a proposal on how monitoring will be done for (but not limited to) hours of operation, number of trucks, noise impacts, and all impacts stated in the DEIS.
- There is no mention of a procedure for residents to file complaints or raise concerns during the proposed mine operation. We request a proposal on how citizens' and town officials should raise concerns and the process for having them heard and addressed.

Limits on future expansion

- What is recommended for ensuring the enforcement of promises of limiting future expansion under Red Wing's ownership or if Red Wing should sell its operation to someone else?

We appreciate the involvement and work of the DEC in this matter.

Be It Resolved, that this and all preceding pages are hereby adopted by the Town of Milan Town Board as its official response to the New York State Department of Environmental Conservation's request for comment on Red Wing Properties, Inc.'s Proposed "Archer" Sand and Gravel Mine Draft Scoping Document.

On a motion by Pauline Clark, seconded by Alfred LoBrutto, and a vote of 4 for; 0 against; 1 abstaining and 0 absent, this resolution was adopted on February 9, 2004.

Respectfully submitted by:

A handwritten signature in black ink, reading "John V. Talmage", is written on a light-colored rectangular background. A vertical line is drawn to the right of the signature.

John V. Talmage,
Town Supervisor, Town of Milan

cc/

Lauren Kingman, Planning Board Chair
Ross Williams, Zoning Board of Appeals Chair
Ted Fink, Greenplan
Town Attorney